IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4363 OF 2005

Kashinath Vyankat Mohite. ... Applicant.

Versus.

State of Maharashtra. ... Respondent.

Shri M.K.Kocharekar for the Applicant.

Shri K.V.Saste, A.P.P.for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 19th July, 2005.

P.C.:

1. Heard the learned counsel appearing for the Applicant and the learned A.P.P. for State. The allegation against the Applicant is of commission of offence punishable under section 302 of the Indian Penal Code. The case of the prosecution is that the Applicant has committed murder of his second wife by name Babita. The learned Counsel for the Applicant has invited my attention to the post mortem notes. He submitted that the size of the fracture mentioned in the post mortem notes does not correspond to the first injury mentioned in column No.17 i.e. CLW on right parietal region. Relying upon extracts of medical jurisprudence by H.W.V.Cox and medical jurisprudence by Modi, he submitted that subdural haemorrhage can be caused due to various reasons apart from the fracture of the skull. He therefore submitted that the entire story of the prosecution is doubtful as the presence of the Applicant

at the site of the offence is itself doubtful.

2. I have considered the submissions. The allegation against the applicant is that he assaulted his wife by hitting a stone on her head. The role played by the Applicant is seen from the statement of the Complainant Pramila Jagannath Thate. After assault on her, the deceased fell down and thereafter she was assaulted by a stone. The Applicant also caused injury to her hand. The post mortem notes show fracture of right radius and ulna. Even the injuries on the person of the deceased support the prosecution case. The first injury is CLW of size 10x7 cm. on right parietal region which exposed the parietal bone. As stated earlier there is a fracture of right parietal bone and cause of death is written as subdural haematoma due to fracture of right parietal and left parietal bones. The evidence on record at this stage is sufficient to show complicity of the Applicant in a brutal offence. Therefore, there is no reason to take a view different from the view taken by the learned Sessions Judge. The Application is, therefore, rejected.

3. The learned trial Judge is directed to expedite the trial and will treat the case as High Court expedited case.

Judge.